

Supreme Court of the United States

OCTOBER TERM, 1970

No. 5257

LOU BERTHA LABINE, NATURAL TUTRIX OF
MINOR CHILD, RITA NELL VINCENT,
Appellant,

—v.—

SIMON VINCENT, ADMINISTRATOR OF
THE SUCCESSION OF EZRA VINCENT,
Appellee.

APPEAL FROM THE SUPREME COURT OF LOUISIANA

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14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

No. 13,527

SUCCESSION OF EZRA VINCENT

PETITION—Filed January 14, 1969

The petition of LOU BERTHA LABINE, Tutrix of the minor child, Rita Nell Vincent, with respect represents that:

1.

LOU BERTHA LABINE is the Tutrix of the minor child, Rita Nell Vincent.

2.

Rita Nell Vincent is the duly acknowledged child of the decedent, Ezra Vincent, and is therefore his sole heir and entitled to the entire net proceeds of this succession.

3.

In the alternative, Rita Nell Vincent is entitled to support and maintenance in the reasonable sum of One Hundred Fifty and no/100 (\$150.00) Dollars per month.

WHEREFORE, LOU BERTHA LABINE as Natural Tutrix of the minor child, Rita Nell Vincent prays that:

(a) The Administrator of the succession, Simon Vincent be duly cited and served according to law.

(b) That a rule issue herein ordering Simon Vincent, Administrator of this succession to show cause, if any he has, before this Court at a date and time to be fixed by this Court, why Rita Nell Vincent should not be decreed to be the child and sole heir of Ezra Vincent, or in the alternative, why the succession of Ezra Vincent

should not pay support and maintenance for the minor child, Rita Nell Vincent.

(c) That said rule be made absolute and the minor child, Rita Nell Vincent, be decreed to be the sole heir of Ezra Vincent, or in the alternative, entitled to support and maintenance in the amount of One Hundred Fifty and no/100 (\$150.00) Dollars per month.

SCOFIELD, COX & BERGSTEDT

By /s/ James J. Cox
126 West Kirby Street
Lake Charles, Louisiana

ORDER

Considering the above and foregoing petition:

LET a rule issue herein ordering Simon Vincent, Administrator of the Succession of Ezra Vincent to show cause, if any he has, on the 3 day of February, 1969, at 10:00 o'clock A.M. why the child, Rita Nell Vincent, should not be decreed to be the sole heir of Ezra Vincent and as such, entitled to the entire net proceeds of this succession, or in the alternative, why the succession of Ezra Vincent should not be ordered to pay unto LOU BERTHA LABINE, Natural Tutrix for Rita Nell Vincent, the sum of of One Hundred Fifty and no/100 (\$150.00) Dollars per month for the support of Rita Nell Vincent. If this rule is contested, it must be placed upon the trial docket for assignment.

THUS DONE AND SIGNED at Lake Charles, Louisiana, in chambers on this 14 day of January, 1969.

/s/ Cecil C. Cutrer
District Judge

IN THE 14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

[Title Omitted in Printing]

ANSWER TO RULE FOR SUPPORT—Filed January 24, 1969

Now into Court, through undersigned Counsel, comes Simon Vincent, Administrator of this succession, who for answer to the rule to show cause on February 3, 1969, why the Administrator of this succession should not be ordered to pay unto Rita Nell Vincent, the alleged illegitimate acknowledged child, support, with respect, shows:

1.

Articles 1, 2 and 3 of plaintiff's petition are denied.

2.

Further answering, plaintiff shows that the minor child, Rita Nell Vincent, as the alleged illegitimate acknowledged child of the decedent, Ezra Vincent, is presently receiving a pension for her support from the Veteran's Administration in the sum of \$40.00 per month, and a pension for her support from the Social Security Administration in the sum of \$60.00 per month, making a total payment for her support in the sum of \$100.00 per month.

3.

That the above support payments will continue until said minor child reaches the age of 21 years, and thereafter if she is still in need of support and is attending school.

4.

That said minor child is not in absolute need for alimony for support due to the fact that she is presently receiving the sum of \$100.00 per month as set forth hereinabove, which is adequate for her maintenance and support.

WHEREFORE, defendant in rule prays that this answer be deemed good and sufficient, and that said rule be dismissed at plaintiff's cost.

By his attorneys,

/s/ James A. Leithead
of the lawfirm of Kaufman,
Anderson, Leithead, Scott &
Boudreau—P. O. Box 1299
117 West Broad, Lake
Charles, La.

[Certificate of Service Omitted in Printing]

14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

Lake Charles, Louisiana, March 4, 1969

Court met, His Honor Jack C. Watson, Judge presiding, with Woodie Head, Deputy Sheriff, and Patty Cole Deputy Clerk of Court, in attendance.

* * * *

No. 13,527

SUCCESSION OF EZRA VINCENT

Case is placed on the Trial Docket for a fixing date.

* * * *

IN THE 14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

Lake Charles, Louisiana, June 2nd, 1969.

Court met, His Honor Cecil C. Cutrer, Judge presiding,
with R. W. Holleyman, Deputy Sheriff, and Bess C.
Wallace, Deputy Clerk of Court, in attendance.

* * * *

No. 13527

SUCCESSION OF EZRA VINCENT

James J. Cox, Esq., files a memorandum of law in
support of the rule filed by Lou Bertha LaBine, Tutrix
of the minor child, Reta Nell Vincent.

* * * *

No. 13,527

SUCCESSION OF EZRA VINCENT

This matter came on for hearing on the exception of
no right of action filed by the Administrator of this suc-
cession to the rule filed by Lou Bertha LaBine, Tutrix
of the minor, Reta Nell Vincent to have the minor recog-
nized as the sole heir of decedent or in the alternative,
to have this succession to pay unto the child the sum of
\$150.00 per month for her support. Present: James A.
Leithead, Esq., counsel for Administrator, and James J.
Cox, Esq., counsel for plaintiff-in-rule, Lou Bertha La-
Bine. Exception taken up, argued, and overruled by the
Court. The matter is then taken up on the merits of
the rule. Case is called, and Mr. Cox files into the record
a joint stipulation of facts. Evidence adduced, closed and
submitted, and for the oral reasons assigned, the rule
for support is dismissed and the rule for inheritance or
to be recognized as an heir of deceased by the Tutrix
of the minor child is dismissed at her costs, and the Court
declares that the heirs of Ezra Vincent are collateral,
as set out in the petition.

* * * *

EXHIBIT P-2

LOUISIANA STATE BOARD OF HEALTH
BUREAU OF PUBLIC HEALTH STATISTICS

CERTIFICATE OF LIVE BIRTH

BIRTH No. 117-4-1962

Infant's Name: Vincent **Kota**

Child's Last Name: Patterson **Retire**

Sex: Girl **Age:** 15 **Month:** May **Day:** 15 **Year:** 1962

Place of Birth: Lake Charles **State:** Louisiana

Address: 1116 Belden St **City:** Lake Charles **State:** Louisiana

Parents: **Father:** Ena Vincent **Mother:** Lela Bertha Patterson

Occupation: Retired **Address:** Westlake, La

Signature of Father: *Ena Vincent* **Signature of Mother:** *Lela Bertha Patterson*

Signature of Local Registrar: *Caroline Taylor*

Date: May 30, 1962

Signature of State Registrar: *A. Giacci*

Date: DEC 17 1982

I CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF A CERTIFICATE DULY REGISTERED WITH THE LOUISIANA STATE BOARD OF HEALTH, DIVISION OF PUBLIC HEALTH STATISTICS.

24. J. Remond
STATE HEALTH OFFICER

DATE

STATE REGISTRAR

EXHIBIT P-3

1962-10-367

ACKNOWLEDGMENT OF PATERNITY

STATE OF Mississippi PARISH/COUNTY OF Calhoun

before me, the undersigned Notary Public, personally appeared:

Alfred P. Vincent of Route 1, Box 205, Calhoun, La.
(Affiant) (Alfred P. Vincent)
duly sworn, depose and say: that he is the natural father of a
child born to Marie Broussard on March 15, 1962
(Name of Mother) (Date of Birth)
at Calhoun, La. and whose birth is recorded in
(Parish)

and that he is the father of the child named Marie Broussard
(Name of Child) (Name of Father)
and that he is the father of the child named Marie Broussard
(Name of Child) (Name of Father)

E. J. Vincent
(Signature of Father)

79 years
(Father's age at time of child's birth)
(Place of Birth and State) (Name of Mother)

and that he is the father of the child named Marie Broussard
(Name of Child) (Name of Father)
and that he is the father of the child named Marie Broussard
(Name of Child) (Name of Father)

Marie Broussard (Signature of Mother)
Alfred P. Vincent (Signature of Father)
1916 Calhoun St., Calhoun, La.
(Present address of Mother)

and that he is the father of the child named Marie Broussard
(Name of Child) (Name of Father)
(Place of Birth and State)

and that he is the father of the child named Marie Broussard
(Name of Child) (Name of Father)
(Place of Birth and State)

THIS FORM NOT ACCEPTABLE UNLESS SIGNED BY TWO WITNESSES

IF BOTH PARTIES DO NOT APPEAR BEFORE THE SAME NOTARY, PLEASE FORWARD SIGNED
AFFIDAVIT TO SECOND-PARTY WITH INSTRUCTIONS TO HAVE NOTARY PREPARE AFFIDAVIT
ON THE REVERSE SIDE IN ACCORDANCE WITH THE PROPER AFFIDAVIT ON THE FACE HEREOF
AND IN THE PRESENCE OF TWO WITNESSES.

DIVISION OF PUBLIC HEALTH STATISTICS
LOUISIANA STATE BOARD OF HEALTH

FOURTEENTH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

EXHIBIT D-1

I CERTIFY that the earliest index of Marriages in the office of the Clerk of Court, Calcasieu Parish, Louisiana, goes back to the year 1910 (April 25, 1910). The earlier indexes were destroyed in the Court House fire in 1910.

Lake Charles, Louisiana, June 2, 1969.

/s/ Gordon E. Stein
Dy. Clerk of Court
Calcasieu Parish, Louisiana

IN 14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

[Title Omitted in Printing]

STIPULATION AS TO FACTS—Filed June 2, 1969

It is stipulated and agreed that if the witnesses were sworn and testified in the above entitled and numbered cause, and the available documentary proof introduced, that the following facts would thereby be established, and the parties hereto agree to the same, the evidence of which, except for this agreement, need not be adduced upon the trial, the facts of the case being stipulated to be as follows:

1) That Ezra Vincent died intestate at the age of 76 years, on September 16, 1968, in Rapides Parish, Louisiana, where he was hospitalized in the Veteran's Hospital for treatment.

2) That the decedent had his domicile and residence for many years prior to his death in Calcasieu Parish, Louisiana, where he owned movable and immovable property.

3) That the decedent was married to Alma Prater Vincent in 1920, and they were divorced in Jefferson County, Texas, by judgment dated March 13, 1953. No children were born of this marriage. The decedent never remarried.

4) The decedent never adopted any children, nor was he ever adopted by anyone. No children were born of any marriage.

5) By Notarial act, dated May 10, 1962, the decedent legally acknowledged to be the natural father of the minor, Rita Nell Vincent, born March 15, 1962.

THUS ENTERED INTO AND SIGNED at Lake Charles, Louisiana, on this 31 day of May, 1969.

/s/ James J. Cox
Attorney for Lou Bertha La-
Bine, Tutrix for the minor,
Rita Nell Vincent.

/s/ James A. Leithead
Attorney for Simon Vincent,
Administrator of the Suc-
cession of Ezra Vincent.

IN 14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

[Title Omitted in Printing]

TRANSCRIPT OF TESTIMONY

LOU BERTHA LABINE,

petitioner, after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. COX:

Q State your full name, please.

A Lou Bertha Labine.

Q Mrs. Labine, are you the mother of the minor child Rita Nell Vincent?

A Yes, sir.

Q Was this child born of a natural union between yourself and Ezra Vincent with whom you lived and resided up until the time that he left for his—

MR. LEITHEAD: I object to that, Your Honor, as leading the witness. I object to the living and residing and so forth.

THE COURT: It's a leading question.

MR. COX: I will restate it.

Q Was this child born of a natural union between you and Ezra Vincent, Mrs. Labine?

A Yes, sir.

Q Now did you live and reside with Mr. Vincent?

A Yes, sir, part time.

Q And during what period of time was that?

A From '61. I met him in '61; the baby were born in '62. '63, '64, '65, '67, '68, up until he died I were there.

Q Up until the time that he died?

A Passed, yes, sir. I was the one that taken him to the hospital in Alexandria. I were with him.

Q Were you notified as next of kin when he died at the hospital?

A Yes, sir, I notified his brothers.

Q You notified his brothers?

A Yes, sir, I did.

Q All right. Now, Lou Bertha, do you know whether or not Ezra's mother and father were married?

A No, sir, I don't even know them.

Q Now do you know whether or not the people that you refer to as his brothers, do you know whether or not they were born of the same union, or whether they were born of another union, or what?

A No, sir, I don't know. I know that he say they are brothers, but to know they are the same father—by the mother and father I do not know that.

Q And you did not know the mother and father—

A No, sir.

Q —or know of their marriage or anything like that?

A No, sir, I didn't.

Q Now do you have living with you Rita Nell Vincent?

A Yes, sir, I have her with me.

Q Now did you at my request prepare a list of items, just generally, that involved expenses for the support of this child?

A Yes, sir, I have.

Q Did you prepare that at home and then did we go over it, and did you make it out in smooth, and do you have it there with you?

A I have it here with me. I was at home.

Q All right. You may refer to that.

A All right. The money—expenses for Rita Nell, grocery is \$60.00 per month, school supplies, \$9.30.

Q Is that school supplies or school lunches?

A School lunch, I'm sorry. School lunch.

Q All right.

A And clothing, \$15.00. Baby Sitting, \$10.00.

Q Baby sitting, is that because you work?

A Because I work. I working.

Q All right. And what is the amount on that?

A I have that as \$10.00 per month.

Q All right.

A Doctor and dentist work, \$20.00 a month. Rent, \$20.00 a month.

Q Lets examine that item a minute. Are you buying or renting a piece of property.

A I'm buying.

Q How much do you have to pay monthly?

A I pay from \$80.00 a month to \$100.00 a month.

Q It depends on what now?

A According to when I am behind. I pay \$20.00 to catch up.

Q Is that a penalty you have to pay if you are late in making payment?

A Well, you have to pay interest, more interest, if you are late.

Q Now did you figure then, attributing some portion of it to her, that her portion is \$20.00?

A Yes, sir, a portion of it.

Q All right. And her toilet tissue—toilet supplies, like teeth—her teeth brush and soap is \$10.00 per month. Sunday school and church, \$5.00 per month.

Q Now are you-all active in a church?

A Yes, sir, she belong to church. She been baptized.

Q Do you have one child who is going to McNeese?

A Yes, sir; Sheron Labine.

Q How do you spell that?

A S-h-e-r-o-n. Sheron Labine.

Q All right. Now is she active in church also?

A Yes, she's active. She is leaving on the 13th of next month, this month, for mission in Florida, Miami, Florida.

Q Are you bringing Rita Nell Vincent up in the same way?

A Yes, sir, I am.

Q All right. Go on with the items.

A Her toys for her is \$20.00 a month.

Q Does that include recreation—

A Recreation, records, dolls, books and things.

Q All right.

A And the house keepup, \$10.00 per month.

Q That's her share of the cost of maintaining your household and keeping it up?

A That's right.

Q All right.

A And school supplies, \$5.00. Transportation, \$3.00. Miscellaneous, \$5.00.

Q All right. So that would amount to \$192.30. These are things that you incur every month, is that right?

A Yes, every month that I have to . . . cost of living.

Q All right. Since the death of Ezra Vincent have you been maintaining this child and keeping her up and spending money?

A Yes, sir, I do.

Q Now where do you work?

A I work at Memorial Hospital.

Q And, of course, you are going to continue as tutrix of the child to maintain her and keep her up?

A Yes, sir, that's right.

MR. COX: I tender the witness.

CROSS-EXAMINATION

BY MR. LEITHEAD:

Q Lou Bertha, you didn't know Ezra but from 1961?

A I met him in 1961.

Q And where did you-all meet?

A We met right there—right here on the parking lot and then I went out to his house, in Mossville.

Q In Mossville?

A Yes, sir, lived in Mossville.

Q Did you maintain a home, or did all that to him, during all that period of time in Lake Charles?

A What is it?

Q Did you maintain a home in Lake—

A How many children I have; I'm a mother of eight children and ten grandchildren.

Q And how many times have you been married?

A How many—I've been married twice.

Q And who were those two times to?

A Well, do that have to be consider into this?

Q Well, . . .

THE COURT: Just answer the questions.

THE WITNESS: Okay.

Q Who were you married to?

A I were married to Eugene Labine.

Q And when did that marriage terminate?

A When did that marriage came—in '43.

Q And did he pass away?

A Yes, sir, he is. He did.

Q How many children did you have by him?

A I had three kids by him.

Q And who did you marry next?

A I married Eugene Labine. I mean, James Brooks. That were my first time. I didn't have any children for him.

Q And you don't have any children by James Brooks?

A No, sir, I don't.

Q And the other five children were born out of wedlock?

A Without a wedding, yes, sir.

THE WITNESS: Okay.

Q You know his brothers and sisters; Ezra's brothers and sisters? Did you know them?

A I just—I know of them. I don't know them personally. I know this—I know him more than I know any of them because I'm the one—I'm the one called him the night before we went to Alexandria.

Q Did Ezra tell you who his brothers and sisters were?

A Well, yes, he told me; Wilbur, Ralph. He didn't—Ralph.

Q He spoke of his family?

A That's right; but Simon, he didn't care nothing about Simon. He say Simon just one of those out the way.

Q And you in fact called Wilbur, did you?

A Yes, sir, I called Wilbur.

Q And you talked with him at the wake?

A Yes, I talked to Wilbur at the wake. And I talked to Wilbur before—

Q How much money do you make—excuse me, I didn't want to interrupt you. Go ahead.

A Okay.

Q What did you want to say?

A I say I talked to—I discussed with Wilbur when we got ready to go to Alexandria. He told Wilbur that I was taking him.

THE COURT: I am going to overrule the objection to get our record straight on it.

A Yes, sir.

Q How much money are you receiving?

A I'm receive \$60.00 from social security, \$40.00 from the Veteran.

Q That's each month?

A That's right. Each month is right.

Q A hundred dollars a month?

A That's right.

Q And you went down and made the application?

A No, sir, I didn't make the application.

Q You didn't go down to the Veterans office and sign?

A Oh, yeah, I had to sign after Ezra had passed, sure, because it's due her. That's right.

Q But after Ezra passed away you went down and made the application?

A Well, sure.

Q And also went up to the social security office?

A Well, what—he had signed up for her in '65 for her social security. He did that himself, and then I had to go down because the money was sent to me.

Q That was one of the reasons why Ezra wanted to acknowledge the child so you would get this social security and Veterans?

A Oh, no.

Q It wasn't?

A No, sir.

Q He wasn't thinking about that?

A No, sir, He didn't think anything. He recognized his child all the way. He did not consider that.

Q But you are getting \$100.00 a month?

A That's right, from—that's right.

MR. LEITHEAD: That's all.

MR. COX: Since we have gone into this, and this is—under my objection, and under a note of evidence, Your Honor, in order to protect our record.

THE COURT: Certainly.

REDIRECT EXAMINATION

BY MR. COX:

Q Mr. Vincent was—as the father of Rita Nell, you were receiving social security prior to Mr. Vincent's death? For her support?

WILBUR VINCENT,

being called as a witness by the defendant, after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LEITHEAD:

Q Would you state your name and address?

A Wilbur Vincent, 875 Grant, Beaumont, Texas.

Q Now you are the brother of Ezra Vincent?

A Yes, I am.

Q Now where did the family, the Vincent family, live?

A Well, they lived on the . . .

Q Your mother and father, where did they live?

A Well, they lived on—I wouldn't know the proper name. They didn't have a special address.

Q Well, is it some kind of community they call it?

A Oh, Mossville.

Q Mossville, over near Westlake?

A Yes.

Q And what was your father's name?

A Eliza Vincent.

Q And what was your mother's name?

A Priscilla Vincent.

Q Did they own land over there?

A Yes, they did.

Q And what did your father do for a living?

A He farmed and raised stock.

Q Now how old are you, Wilbur?

A Fifty-eight.

Q Did your mother and father live in the Mossville community all of their lives that you know of?

A Oh, all that I know of.

Q And when did you father pass away?

A It was in '37.

Q And your mother, when did she pass?

A '40.

Q And did they pass away over at—in their home in the Mossville community?

A Yes, they did.

Q Is the old home place still standing there?

A There is no home—no building there. The land is still under the Vincents.

Q Well, what happened to the building, the home itself?

A Some of them were moved, and—some of the other families moved them to some other place. They moved out near the community. They moved the old buildings; tore them down.

Q They were either torn down and moved away?

A Yes.

Q There is nothing on the land now?

A No.

Q When was that done, about, do you know?

A No, I wouldn't know exactly. It was somewhere probably in the late fifties.

Q Now did you grow up in the Mossville community as a boy?

A Yes, I did.

Q And did you have any brothers and sisters?

A Yes.

Q Did they grow up in the Mossville community with you?

A Yes.

Q Did you-all live in the—in your mother and father's home over there?

A Yes.

Q Where did you-all go to school?

A Went to Mossville school.

Q Did all of you have the name Vincent?

A Yes.

Q Were you known by the name of Vincent in the community?

A That's right.

Q Was your—did you-all belong to any church over there?

A Mount Zion Baptist.

Q Do you know the name of your grandfather?

A Yeah, he was Elisa Vincent, Sr.

Q Well, that's you—yeah. Well, what's—did he have a name that he went by that people knew him by?

A Doc.

Q Was he ever a minister?

A Yes, they tell me he was, but I have never heard him preach, but they tell me he was a minister.

Q What church was he connected with?

A Mount Zion Baptist.

Q Could you name—give us the names of your brothers and sisters?

A Yes. You mean deceased or . . .

Q Well, give the ones that are living now and then the ones that are dead.

A The living is Simon Vincent, Lottie Vincent Rogers, the next is Laura Vincent Ryan, and Ralph Vincent, and Wilbur Vincent.

Q Those are the ones that are living now?

A That's right.

Q Now do you have any that have died?

A We have—the first one was Cornelius Vincent, Douglas, Hester, Sally, Chester, Rosie Vincent Kee, and Ezra Vincent.

Q Now how many children altogether were there in the family?

A There were twelve.

Q Do you know whether or not Chester Vincent died leaving any children?

A Yes.

Q And did Rosie Vincent Kee die leaving any children?

A Yes.

Q Did Cornelius Vincent leave any children?

A No.

Q Douglas?

A No.

Q Hester?

A No.

Q Sally?

A No.

Q And Ezra left no other children except this—that they claim, this acknowledged child? Ezra didn't have any children by any marriage?

A No, not by marriage.

Q Now which—Ezra was seventy-six years of age when he died. Was any of these children born before Ezra?

A Only Cornelius.

Q Did you and your family farm, do farming operations over there?

A Yes.

Q Did you visit among—as a family group among other neighbors and relatives?

A Yes, we did.

Q Your father and mother provided for you during your childhood?

A Yes?

MR. LEITHEAD: I have no further questions.

CROSS-EXAMINATION

BY MR. COX:

Q Wilbur, do you have a birth certificate?

A No, I don't.

Q Do you know anything about the circumstances of the marriage of your father and mother?

A No, sir, I sure don't.

Q Did you ever try to get a birth certificate?

A I made one after—when they told me I needed it, and then after they told me I didn't need it I didn't continue.

MR. COX: That's all I have.

(Witness steps down.)

MURIEL RIGMAIDEN,

called as a witness by the defendant, after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LEITHEAD:

Q Would you state your name?

A Muriel Rigmaiden.

Q Where do you live, Muriel?

A Mossville.

Q That's over near Westlake?

A Yes, sir.

Q And how old are you, Muriel?

A I'm sixty-five; born in 1904, February 3.

Q And where have you lived all your life?

A Mossville.

Q Did you know Eliz Vincent, Jr. and his wife, Priscilla Vincent?

A Yes, sir.

Q Did you know them well?

A Yes, sir.

Q Did they live near where you live?

A Oh, about a mile and a half, or two miles, apart.

Q Did you ever go over to their home?

A Plenty. Lots of times. About near two or three times a week go and play with the children.

Q And did you know their children?

A Yes, sir.

Q When you went over there did you go over there to visit or to work, or—

A Well, sometime I go over there to visit and play with the children, and then some when he would be farming I'd generally go over there and help them plow.

Q Were they well known—Elisa Vincent and his wife, were they well known in the community?

A Yes, sir.

Q Which one of the children that you played with when you were playing with them?

A I played with one they called Wilbur, and Simon and Ezra were bigger than me, and one called Chester, and one they call—I can't call his name now. The one that died there. I forget his name.

Q Douglas?

A The one that died. Douglas. It wasn't his right name.

Q Well, if you don't remember that's all right. It was one of them that died?

A Yes, sir. I played with him a plenty.

Q Was Elisa Vincent, Jr. and his wife recognized in the community as man and wife?

A Yes, sir.

Q Do you know which church they belonged to?

A Mount Zion Baptist Church.

Q And which church do you belong to?

A Mount Zion Baptist Church.

Q And did you see them at church at functions and meetings?

A Yes, sir. They passed right by my house. They had to pass by my house to go to the church at that time.

Q You said that—did you say—I don't know whether you—did you go to school over in the Mossville community?

A Yes, sir.

Q Did you go to school with any of the children?

A Yes, sir.

Q Did they go by the name of Vincent?

A That's right.

Q And they all lived—all the children lived over there in the Vincent home?

A Yes, sir.

Q And do you know whether or not their mother and father provided for them?

A Well, all I can see they did everything they could for them, and in my eyes just like any other man would do.

Q Do you know the name of Elisa Vincent, Jr.'s father?

A Well, that's—yes, sir.

Q What was his name?

A Doc. We called him Uncle Doc all time.

Q Uncle Doc?

A Yes, sir, that's what we called him.

Q Well, was he ever connected with the Mount Zion Church?

A Yes, sir, he was preacher.

Q Did you ever hear him preach?

A Yes, sir.

Q You are kind of connected with the family in some way, Muriel, the Vincent family?

A Yes, sir.

Q What is that relationship?

A I don't know just exactly what we call—I'd call him Cousin Elisa, and his mother, I call her Cousin Cilla.

Q Cousin Cilla.

A And so I don't know what—and to go back to the right end of it I would have to hunt that up a little while.

MR. LEITHEAD: I have no other questions.

LENON BRAXTON,

called as a witness by the defendant, after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LEITHEAD:

Q Would you state your name and your residence?

A Lenon Braxton. I live at Mossville.

Q And how old are you, Lenon?

A Seventy.

Q And how long have you lived in Mossville?

A All my days.

Q Did you know Elisa Vincent, Jr. and his wife, Priscilla?

A Yes, sir.

Q And did they live in Mossville also?

A Yes, sir.

Q Have you ever been over to their home?

A Yes, sir.

Q Were you over there at their home when you were
a young boy?

A Yes, sir, almost all while I was growing up.

Q And what would you go over there for?

A I would go over there to visit the boys.

Q You played with the boys?

A Yes, sir.

Q Did you ever work on the farm?

A No, sir.

Q Do you ever remember anything particularly that
the boys did there when you went over there?

A Oh, we would go in swimming.

Q Did Elisa, Jr. and his wife, Priscilla, live there
as man and wife?

A Yes, sir.

Q They had their children living there?

A Yes, sir.

Q Do you know if they belonged to a church?

A Yes, sir, they belonged to Mount Zion Baptist
Church.

Q And do you know whether or not the children went
to school?

A Yes, sir, I went to school with some of them.

Q You went to school with them?

A Yes, sir.

Q And which school did you-all go to?

A Mossville.

Q Did they all go by the name of Vincent?

A Yes, sir.

Q Do you remember Elisa Vincent, Jr.'s father?

A Yes, sir.

Q And what was his name?

A Well, we called him Doc Vincent.

Q And was he ever connected with the church?

A He was paster of Mount Zion during—before he
died.

Q Did you ever hear him preach?

A Oh, yes, sir.

Q Did you ever see Priscilla Vincent and her husband
at different meetings?

A Yes.

Q Neighbors?

A Yes, sir.

Q Different groups?

A Yes, sir.

Q Did they always conduct themselves as man and wife?

A Yes, sir.

Q They always acknowledged the children as their children?

A Yes, sir.

Q Now did you know them from the time you were a boy up until the time of their death?

A Yes, sir.

Q Do you remember if you went to the funeral or not?

A What's that?

Q Did you go to the funeral of Elisa or his wife?

A No, sir, I don't believe I went to his funeral. I wasn't at—I was in Vinton then during the time he died.

MR. LEITHEAD: I have no other questions.

CROSS-EXAMINATION

BY MR. COX:

Q Did you know all the children, Mr. Braxton?

A Yes, sir.

Q Can you name them?

A I don't know all of their names, but I know them all.

Q So you don't know the names of all the children?

A No, sir.

Q So you wouldn't know whether some of the ones that Wilbur says were brothers and sisters that died first or died later, you wouldn't know about those things?

A I know them, but I just don't know all of them's names.

Q Which ones do you know?

A I know Wilbur, Ezra, and Simon, the one they call Douglas—we called him Jack, and Rosie, Hester, Sally and Laura. I believe that's all of them I can remember.

Q That's all you remember of the children?

A That's all I can remember.

Q And you don't know anything about the circumstances of Elisa and Priscilla's marriage, if there was one?

A No. They must have been married because she was a missionary of Mount Zion Baptist Church, and they wouldn't let her stay in that church if they hadn't been married.

Q Did you see any of the children baptized?

A Yes, sir.

Q Which ones?

A Wilbur and Red and Chester.

Q How old are you, Mr. Braxton?

A Who me?

Q Yes, sir.

A I was born March 18, 1899.

Q You saw Wilbur baptized?

A Yes, sir.

Q You were there at his baptism?

A Yes, sir.

Q And who else did you see baptized?

A I saw one called Chester. I saw him baptized, too.

MR. COX: That's all I have.

(Witness steps down.)

EDGAR MOUTON,

called as a witness by the defendant, after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LEITHEAD:

Q Would you state your name, please?

A Edgar Mouton. Mossville.

Q You live in Mossville?

A Yes, sir.

Q And how old are you, Edgar?

A Sixty-four at present.

Q Have you lived in Mossville all your life?

A All my life.

Q Did you know Elisa Vincent, Jr. and his wife, Priscilla Vincent?

A Yes, sir, I did.

Q And when did you first become acquainted with them; about when?

A Well, we grew up together. After—I was born in Mossville. And naturally so, as children grow up, they learn the old folks names, and—in other words, I knew them every since I been big enough to remember.

Q You knew the children of Elisa Vincent, Jr.?

A Oh, yes, I knew them all but the oldest one, the one that—

Q That one—

A The one that Wilbur mentioned that died.

Q Cornelius?

A Cornelius. No, sir, I didn't know her.

Q Did you ever go over to their home?

A Oh, yes.

Q Did they live there as man and wife with their family?

A Yes, sir.

Q Did you ever do any work over on the farm?

A Oh, yes, sir.

Q What did you do there?

A Well, they was rice farmer, and highland farming, too; picked peas, cut rice, shock rice, thrash rice, haul rice, pull corn, pick peas, and everything.

Q Did you know whether or not the children went to school over there?

A Oh, yeah.

Q Did you go to school with some of them?

A Yes, sir.

Q Did they go by the name of Vincent?

A Vincent; yes, sir.

Q Were they well known people in the community?

A Well known.

Q Did you know Elisa Vincent, Jr.'s father's name?

A Yes, sir, I knew him by the name of Uncle Doc.

Q Uncle Doc?

A Yes, sir.

Q Was he a preacher?

A He was a minister. That's right.

Q At the Mount Zion Church?

A Mount Zion Baptist Church.

Q Do you go to that church?

A Yes, sir.

Q Do you know when it was destroyed by fire, Edgar?

A Well, no, it's been destroyed twice. It was destroyed in 1918 by the hurricane storm, the 6 of August, and the fire, I don't remember when the fire destroyed the church.

Q Was it after 1918, or before?

A What?

Q The fire.

A The fire was before 1918.

Q Did you say that you had visited with the Vincents in their home?

A I did.

Q Did you ever see them out at church?

A Sure.

Q The children—were the children, do you know, were any of the children baptized in church?

A Yes, sir.

Q Were you there when any of them were baptized?

A I was there when Wilbur and Chester.

Q And as far as you know they had a reputation of being—Elisa Vincent, Jr. and his wife, as being man and wife and raising a family?

A Man and wife; yes, sir. As far as I know of.

Q You weren't present when they got married?

A Oh, no.

MR. LEITHEAD: No other questions.

CROSS-EXAMINATION

BY MR. COX:

Q Mr. Mouton, how old are you, sir?

A Sixty-four.

Q Are you older than all the children?

A No, I'm not.

A Yes, sir.

MR. LEITHEAD: I have no other questions.

CROSS-EXAMINATION

BY MR. COX:

Q Mr. Vincent, who died first, your mother or your father?

A My father died first.

Q About when was that?

A In 1937.

Q And then who died?

A My mother died after he died.

Q You don't know whether or not your mother and father celebrated a marriage, do you?

A Well, yes, sir, they had a marriage.

Q How do you know that?

A I saw their license once. They had got old and—where she had kept them all the time. But I didn't—

Q Where did they get married?

A —particular read on the license.

Q You didn't read it?

A No, sir.

Q You don't know if it was a license or not, do you?

A Well, it supposed to have been a marriage license.

Q Where were they married?

A What's that?

Q Where were they married?

A In Mossville there.

Q They were married in Mossville?

A I understood they married in Mossville. She said she was sixteen years old when they got married.

Q You heard Mr. McMarion testify?

A Yes, sir.

Q Did you see him at your mother's funeral?

A No, sir.

Q You did not?

A No. I wasn't there.

Q Were you at your mother's funeral?

A No.

Q Where were you, sir?

A I was away. I was in Washington, D.C.

Q You were in D.C. and didn't come down for the funeral?

A No.

MR. COX: That's all I have.

(Witness steps down.)

MR. LEITHEAD: At this time, Your Honor, we offer into evidence a certificate from the Clerk of Court showing that if Mr. Gordon Steen, a Deputy Clerk—showing that there is no index to marriages earlier than April 25, 1910. I offer that as D-1.

THE COURT: Let it be received in evidence.

MR. LEITHEAD: Also I offer and introduce in evidence a certified copy of a warranty deed, dated August, 1911, for the purpose of showing that Elisa Vincent, Jr. at that time was married to Priscilla Vincent. I mark it D-2.

THE COURT: Let it be received in evidence.

MR. LEITHEAD: We rest, Your Honor.

THE COURT: Mr. Cox, any rebuttal?

MR. COX: Your Honor, by stipulation we offer, introduce and file into evidence what is already in the record, which is the inventory of the Succession of Ezra Vincent, which is, as I understand it, a part of this record herein already. We make it a joint offering to show the contents of the succession.

THE COURT: Let it be received in evidence.

(Closing argument of counsel.)

THE COURT: The right of this alimony is not to be confused with alimony under our marital laws, but it is another type of alimony which is due a child under circumstances if the need is established. The evidentiary problem here is whether there is need for the child support. Now the general award for support of a child under normal circumstances is approximately \$60.00 to \$75.00 a month. That's about the usual range for each child of the age of this child here. I think that the

\$100.00 a month as it stands now would be ample to support a child of the age of this child, which is eight years of age, thus, the requirement of need has not been met.

The next problem is the law of inheritance. I am fully cognizant that there is an excellent opportunity, or excellent chance, that the jurisprudence in the Levy and the Glona cases will be ultimately extended to illegitimate children who have been acknowledged, such as we have in this case. The trend is in that direction, and there is some authority that's already going in that direction in other States, but we have no Louisiana jurisprudence following those decisions so far.

For those reasons I am going to rule that the petition for alimony shall be dismissed. The petition for inheritance, or to be recognized as an heir of the deceased, Ezra Vincent, by the tutrix of the minor, will be dismissed at her costs, and that the collateral heirs of Ezra Vincent are the heirs as set out in the petition and as shown here by the evidence.

* * * *

IN THE 14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

No. 13,527

SUCCESSION OF EZRA VINCENT

JUDGMENT—June 9, 1969

This matter came on this day to be heard, having been regularly fixed for trial, upon a rule filed by Lou Bertha LaBine, Tutrix of the minor child, Rita Nell Vincent, against Simon Vincent, Administrator of this succession, to show cause why the minor child, Rita Nell Vincent, should not be decreed to be the sole heir of Ezra Vincent, deceased, or in the alternative, why the succession should not be ordered to pay unto said child, alimony for her support, and upon an Exception of No Right of Action filed by the Administrator of this succession;

The Court considering the pleadings, the law and the evidence, for reasons orally assigned;

IT IS ORDERED, ADJUDGED AND DECREED that the Exception of No Right of Action filed by the Administrator of this succession be and the same is overruled.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the rule to show cause why the minor child, Rita Nell Vincent, should not be decreed to be the sole heir of Ezra Vincent, deceased, or in the alternative, why the administrator of this succession should not pay alimony for the support and maintenance of said minor child, be and the same is hereby dismissed.

All costs of this proceeding to be paid by plaintiff in rule.

JUDGMENT RENDERED in Open Court at Lake Charles, Louisiana, on June 2, 1969.

JUDGMENT READ AND SIGNED in Open Court at Lake Charles, Louisiana, on this 9 day of June, 1969.

/s/ Cecil C. Cutrer
District Judge

IN 14TH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

[Title Omitted in Printing]

Lake Charles, Louisiana, June 9th, 1969.

Court met, His Honor Cecil C. Cutrer, Judge presiding, with R. W. Holleyman, Deputy Sheriff, and James R. Andrus, Deputy Clerk of Court in attendance.

No. 13,527

SUCCESSION OF EZRA VINCENT

Present: James A. Leithead, Esq.

Judgment read and signed.

See Decree.

* * * *

[Dec. 18, 1969]

13,527

No. 2912

COURT OF APPEAL
THIRD CIRCUIT
STATE OF LOUISIANA

[Mar. 3, 10:08 A.M. '70, Office of Clerk of Court,
Calcasieu Parish, Louisiana.]

SUCCESSION OF EZRA VINCENT

(LOU BERTHA LABINE, Natural Tutrix of the minor
child, RITA NELL VINCENT, PLAINTIFF-APPELLANT

vs.

SIMON VINCENT, Administrator of the SUCCESSION
OF EZRA VINCENT, DEFENDANT-APPELLEE)

Appeal from the Fourteenth Judicial District Court,
Parish of Calcasieu; Honorable Cecil C. Cutrer,
District Judge, Presiding.

Before TATE, CULPEPPER, and MILLER, Judges.

TATE, Judge.

This is a contest over the estate of Ezra Vincent. His illegitimate daughter, through her tutrix, claims his estate. The trial court dismissed the claim. The tutrix appeals.

The decedent died intestate. He was survived by no spouse, ascendants, nor legitimate descendants. An administration was opened by the decedent's collateral heirs, who inherit from him under Louisiana law to the exclusion of illegitimate children. Louisiana Civil Code Arti-

cles 206, 919 (1870).¹ The illegitimate child claiming her father's estate was formally acknowledged by him by notarial act during his lifetime.

The illegitimate child contends that she should inherit on the same basis as a legitimate child. She argues that the cited Louisiana inheritance statutes unconstitutionally violate equal protection and due process guarantees, since they deny an illegitimate child the right to inherit solely because of the illegitimacy. *Levy v. Louisiana*, 391 U.S. 68, 88 S. Ct. 1509 (1968); *Glonn v. American Guarantee and Liab. Ins. Co.*, 391 U.S. 73, 88 S. Ct. 1515 (1968).

Last year in *Levy* and *Glonn* the United States Supreme Court held that the denial of wrongful death benefits merely because of illegitimacy constitutes an invidious discrimination which violates the due process and equal protection clauses of the United States Constitution. The Louisiana wrongful death statute (Civil Code Article 2315) was invalidated to the extent that it denied illegitimate children or their parents the right to recover on the same basis as the enactment permits where the birth is legitimate.

The appellant relies on reasoning similar to that followed by the Supreme Court of North Dakota in *Estate of Jensen*, — N. Dak. —, 162 N.W. 2d 861 (1968). There, the court invalidated a North Dakota statute which granted inheritance rights to legitimate children

¹ Article 919 provides: "Natural children are called to the inheritance of their natural father, who has duly acknowledged them, when he has left no descendants nor ascendants, nor collateral relations, nor surviving wife, and to the exclusion only of the State.

In all other cases, they can only bring an action against their natural father or his heirs for alimony, the amount of which shall be determined, as is directed in the title: *Of Father and Child*."

Article 202, in defining "natural children", provides: "Illegitimate children who have been acknowledged by their father, are called natural children; those who have not been acknowledged by their father, or whose father and mother were incapable of contracting marriage at the time of conception, or whose father is unknown, are contradistinguished by the appellation of bastards."

Article 206 provides: "Illegitimate children, though duly acknowledged, can not claim the rights of legitimate children. The rights of natural children are regulated under the title: *Of Successions*."

but denied them to illegitimates. In so holding, the court states, 162 N.W. 2d 878:

"Applying the reasoning in *Levy* as no action, conduct or demeanor of the illegitimate children in the instant case is relevant to their status of illegitimacy, we conclude that the classification for purposes of inheritance contained in [the North Dakota statute making the distinction between legitimate and illegitimate children], which is based on such a status and which results in illegitimate children being disinherited while their legitimate brothers and sisters inherit, is unreasonable.

"Accordingly, . . . , we have no hesitancy in holding that [such statute] is unconstitutional as an invidious discrimination against illegitimate children in violation of Section 1 of the Fourteenth Amendment of the United States Constitution and Section 20 of the North Dakota Constitution. This statute, which punishes innocent children for their parents' transgressions, has no place in our system of government, which has as one of its basic tenets equal protection for all."

See also *R. v. R.*, — Mo. —, 431 S.W. 2d 152 (1968); *Storm v. Nun*, 291 N.Y.S. 2d 515 (Family Ct., 1968); Note, 43 Tul. L. Rev. 383, 391-92 (1969).

This reasoning is persuasive. Nevertheless, we do not accept the holdings of *Levy* and *Glon* as deciding more than that wrongful death enactments create an unreasonable exemption from tort liability by allowing illegitimacy to bar recovery of tort damages otherwise due. The decisions found only that there was no rational basis for assuming that marriage would be discouraged and illegitimacy encouraged by denying recovery for subsequent wrongful deaths.

On the other hand, these decisions did not modify certain basic concepts: A state has great latitude in making classifications, so that differences and distinctions in treatment offend the constitutional guarantees only when the variations are arbitrary and without rational basis. *Morey v. Doud*, 354 U.S. 457, 77 S. Ct. 1344 (1957); *United States v. Burnison*, 339 U.S. 87, 70 S. Ct. 503 (1950). Further, the regulation of descent and distribu-

tion are peculiarly within the powers reserved to the states. *United States v. Burnison*, 339 U.S. 87, 70 S. Ct. 503 (1950); *Harris v. Zion Savings Bank & Trust Co.*, 317 U.S. 447, 63 S. Ct. 354 (1943).

Louisiana Civil Code Articles 206 and 919 do not violate constitutional guarantees solely because they constitute enactment in an area traditionally within the power of the states to regulate, nor solely because they represent a determination of succession (or of non-succession of illegitimates) of ancient origin in our own law and commonly found from ancient times in most other jurisdictions. See Louisiana Civil Code 1808, Book 3, Title 1, Chapter 3, Article 44;² 10 CJS "Bastards", Section 29.

They are constitutional, also, because, within the broad powers of classification by the state legislature, there is a reasonable basis for the denial of inheritance to illegitimates equal to that of legitimate children.

First. However unfair it may be to punish innocent children for the fault of their parents, nevertheless such denial may within the legislative discretion properly have a tendency to encourage marriage and to discourage illegitimacy, valid social aims of the state. Non-marriage and illegitimacy might not be deterred by the not-readily-foreseeable subsequent death by tort, or at least *Levy* and *Glon* so held in invalidating illegitimacy as a ground for denial of wrongful death benefits. But, since all men must die and leave their property behind for their suc-

² See reprint of de la Vergne Volume containing Moreau-Lislet's source notes, *Digest of the Civil Laws, Territory of New Orleans, 1808*, p. 155 overleaf, indicating the source to be in the traditional Spanish law in force before Louisiana became part of the United States, including the *Partidas* 6, tit. 13, loi 8, and the *Fuero Real*, Book 3, tit. 6, loi 8. The reprint was made available to the law libraries and appellate courts of Louisiana through republication by the Louisiana State University and Tulane University Schools of Law in 1968. See Franklin, An Important Document in the History of American Roman and Civil Law: The de la Vergne Manuscript, 33 Tul. L. Rev. 35 (1958). As the de la Vergne foreword and Franklin article translating it show, the *Fuero Real* and *Partidas* represent thirteenth century codifications of customary and Roman law then already ancient.

cessors, the denial of inheritance rights to illegitimates might reasonably be viewed as encouraging marriage and legitimation of children.³

Second. Such a regulation might reasonably serve the vital interest of a state in the stability of its land titles and in the prompt and definitive determination of the valid ownership of property left by decedents. It might aid to avoid the disruptions and uncertainties to result from unknown and not easily ascertained claims through averments of parentage, bona fide or otherwise, as to a decedent no longer present to disprove them.⁴ See *Strahan v. Strahan*, 304 F. Supp. 40 (WD La., 1969).

We conclude that the trial court correctly denied the claim of the illegitimate child to inheritance rights.

As to an alternative claim, we likewise find no manifest error in the court's conclusion that the illegitimate child is not entitled to alimony from her father's estate under the provisions of Civil Code Articles 240-242, 243, 919. The court found that the child is not in need of such support (a codal prerequisite) because she is drawing \$100 per month in social security and veterans administration benefits.

³ Here, for instance, the child could have been legitimated by the marriage of her parents. Louisiana Civil Code Article 198. Those in similar circumstances might be induced to legalize their relationship and legitimize their children by the harsh result of the regulation presently upheld, or so it might reasonably be believed by legislature.

⁴ In fairness to appellant, it should be observed that she counters this suggestion by noting that the state could probably reasonably restrict inheritance to illegitimates duly acknowledged by the decedent during his lifetime. Interestingly enough, the French follow a variation of this approach. See: Code Napoleon Article 757; Planiol, *Civil Law Treatise*, Volume 3, Sections 1821-28 (LSLI translation, 1959).

For the reasons assigned, therefore, we affirm the judgment of the trial court dismissing the claims of the child, at the cost of the appellant.

AFFIRMED.

A TRUE COPY
Lake Charles, La., Dec. 18, 1969

/s/ Marie S. Hawkins
Clerk Court of Appeal,
Third Circuit

SUPREME COURT OF LOUISIANA
NEW ORLEANS, 70112

No. 50,369

February 27, 1970

SUCCESSION OF EZRA VINCENT

In re: Lou Bertha Lebine, Natural Tutrix of Rita Nell Vincent, Minor applying for certiorari, or writ of review to the Court of Appeal, Third Circuit, Parish of Calcasieu.

Writ refused. The judgment of the Court of Appeal is correct.

/s/ MEB

/s/ JBF

/s/ SSL

/s/ EHMCC

/s/ WBH

/s/ JWS

/s/ FWS

A TRUE COPY
Clerk's Office
Supreme Court of Louisiana
New Orleans
February 27, 1970

/s/ S. WALLACE MILLER
Deputy Clerk

SUPREME COURT OF THE UNITED STATES

No. 5257, October Term, 1970

LOU BERTHA LABINE, NATURAL TUTRIX OF MINOR
CHILD, RITA NELL VINCENT, APPELLANT

v.

SIMON VINCENT, ADMINISTRATOR OF THE
SUCCESSION OF EZRA VINCENTON CONSIDERATION of the motion for leave to
proceed in forma pauperis herein,IT IS ORDERED by this Court that the said motion
be, and the same is hereby, granted.

October 12, 1970

SUPREME COURT OF THE UNITED STATES

No. 5257, October Term, 1970

LOU BERTHA LABINE, NATURAL TUTRIX OF MINOR
CHILD, RITA NELL VINCENT, APPELLANT

v.

SIMON VINCENT, ADMINISTRATOR OF THE
SUCCESSION OF EZRA VINCENTAPPEAL from the Supreme Court of the State of
LouisianaThe statement of jurisdiction in this case having been
submitted and considered by the Court, probable juris-
diction is noted.

October 12, 1970

State

Sup